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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,514	11/19/2003	Kenichi Nakabayashi	2003_1640A	4689

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WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/715,514

Applicant(s)

NAKABAYASHI ET AL.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/19/2003</u> . | 6) <input type="checkbox"/> Other: ____.  |

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### **Final Rejection**

Applicant's arguments filed 12/22/05 have been fully considered but they are not persuasive for reasons as detailed below.

The prior art rejections are maintained or modified as follows:

### ***Claim Objections***

Claims 20,22,25 are objected to because of the following informalities:

The word "there-between" is incorrectly spelled as "therewbetween". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-6,16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwamoto (5979637).

Referring to claim 5,16. Iwamoto discloses a "Pallet Conveyor" as claimed. See Fig. 1 and respective portions of the specification. Iwamoto further discloses a transfer conveyor (3) for transferring arrayed articles to be separated and supplied; a separating conveyor (5) having one end portion for receiving the

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articles from the transfer conveyor as the articles are transferred by the transfer conveyor; a first stopper for stopping transferring of the articles from the transfer conveyor to the separating conveyor after a predetermined number of the articles, after having been received by the separating conveyor, are positioned on a first portion of the separating conveyor; and a second stopper including an endless belt (20) and a first stopper member (18) projecting from the endless belt, such that upon movement and then stoppage of the endless belt the first stopper member becomes positioned at a stop location for stopping the front one of the articles of the predetermined number on the separating conveyor and thereby preventing conveyance of the articles of the predetermined number by the separating conveyor (See Fig. 1).

Referring to claim 6,17. Iwamoto discloses that a second stopper further includes a second stopper member projecting from the endless belt, such that upon additional movement and then stoppage of the endless belt, the first stopper member is moved from its stop location and becomes positioned at another location, and a second stopper member becomes positioned at a stop location for stopping the separating conveyor a front one of articles of a predetermined number thereby preventing conveyance of the articles by the separating conveyor (See Fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8,10,12-14,18-19, 21,23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto in view of Cox (5168978).

Referring to claims 7-8,12-14,18,23. Iwamoto does not disclose a separating conveyor that is pivotably supported at one end portion or a counter for counting the articles that are received onto the first portion of the separating conveyor. Cox discloses a "Conveyor with transverse positioning" as claimed. See Figs. 1-12 and respective portions of the specification. Cox further discloses a conveyor system (10) comprising in-feed conveyor (19), out feed conveyor (20), base frame (22), table portion (23), drive roller (25), conveyor strands (31), carriage (34), sliding block (42), arm member (70), air cylinders (73-74) and piston rods (75,78) Col. 2 l. 45-65). Cox further discloses that conveyor strands (31) are attached to arm member (70), which is pivotally attached to the sliding block (42) and further discloses different positioning and angles of conveyor strands (31) (See Col. 3 l. 33 – Col. 4 l. 10 & Figs. 6-12). Cox further discloses the use of his apparatus in conjunction with a photo eye and counter, which would detect and separate a number of articles being counted. It would have been obvious to a person of ordinary skill in the art to modify the apparatus of

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Iwamoto to include a conveyor that was supported pivotably around an end portion taught by Cox so that articles could be separated into batches while being counted making it more efficient and precise during separation for different batches of items.

Referring to claim 10,19,21,24. Iwamoto discloses a first stopper that is for stopping the transferring of the articles from the transfer conveyor to the separating conveyor. Iwamoto does not disclose a counter for counting the articles that are received onto the first portion of the separating conveyor. Cox discloses a counter for counting articles that are to be separated. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Iwamoto to include the teachings of Cox to include a counter so that articles could be stopped after a predetermined number to be separated into a group with a predetermined number which would make the process more efficient since items would be grouped into batches with a specific number requirement.

***Allowable Subject Matter***

Claims 9,11,15,20,22,25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments that the prior art fails to teach the claimed features are unpersuasive. In particular, applicant's focus that the prior art does not teach that stopper including an endless belt stopper member is unconvincing as a stopper with a projecting stopper member is clearly disclosed and shown by Iwamoto (See Fig. 1). Consequently, as a review of the prior art undermines applicant's arguments, the claims stand rejected.

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tasaki (10-264901) discloses a "Casing Apparatus" comprising a stop member, transfer conveyor, a conveyor that is pivotable.

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571) 272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**KATHY MATECKI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**